

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION**

JESSE JAMES

PLAINTIFF

v.

CIVIL ACTION NO. _____

**MRC RECEIVABLES CORP., MIDLAND
FUNDING, LLC, PERFORMANCE ONE
FINANCIAL, INC. F/K/A ENCORE CAPITAL
GROUP, INC. D/B/A MIDLAND CREDIT
MANAGEMENT, INC., MIDLAND CREDIT
MANAGEMENT, INC., EQUABLE ASCENT
FINANCIAL, LLC and CAVALRY
PORTFOLIO SERVICES, LLC**

DEFENDANTS

NOTICE OF REMOVAL

COME NOW Defendants, MRC Receivables Corp., Midland Funding, LLC, Encore Capital Group, Inc. (improperly named in the Petition as currently having the corporate name of Performance One Financial, Inc. and doing business as Midland Credit Management, Inc.), and Midland Credit Management, Inc. (collectively referred to as “Midland Defendants”), by and through undersigned counsel, and, while reserving all available and affirmative defenses under Rules 8 and 12 of the Federal Rules of Civil Procedure, file this Notice of Removal of Cause No. 591,172-A styled *Jesse James v. MRC Receivables Corp., et al.*, pending in the First Judicial District Court of Caddo Parish, Louisiana, to the United States District Court for the Western District of Louisiana, Shreveport Division, and would show unto this Honorable Court as follows:

1. On or about March 1, 2016, Plaintiff, Jesse James (“Plaintiff”) filed his initial Petition against the Midland Defendants in the First Judicial District Court of Caddo Parish, Louisiana (“State Court Action”). Copies of all process, pleadings, orders and other papers filed in the State Court Action, are attached hereto as Exhibit “A”, and incorporated herein by

reference. Copies of all pleadings and other papers received by the Midland Defendants are attached hereto as Exhibit “B”.

2. Plaintiff alleges that the Midland Defendants violated the Fair Debt Collection Practices Act (“FDCPA”), specifically 15 U.S.C. §§ 1692, *et seq.*, and the Fair Credit Reporting Act (“FCRA”), specifically 15 U.S.C. §§ 1681, *et seq.* See Plaintiff’s Petition, a copy of which is included in composite Exhibit “A”.

3. This Court’s subject matter jurisdiction is based upon federal question jurisdiction pursuant to 28 U.S.C. § 1331, as the substance of the allegations in the Petition are “arising under the Constitution, laws, or treatises of the United States.”¹ *Id.* Removal of this action to this Honorable Court is authorized pursuant to 28 U.S.C. §§ 1441(a), (c) and 1446. This Honorable Court has supplemental jurisdiction of any and all state law claims in the Petition pursuant to 28 U.S.C. §§ 1367.

4. All Defendants served with process have consented to, or have indicated that they will consent to, the removal of this matter pursuant to 28 U.S.C. § 1446(b) and 28 U.S.C. § 1441(a), and join in this Notice of Removal before the Court.

5. Removal of this matter is timely. One or more of the Midland Defendants were personally served with notice of the original Petition on March 18, 2016. Accordingly, the Midland Defendants file this Notice of Removal within the thirty (30) day time period provided by 28 U.S.C. § 1446(b).

6. Venue is proper in this district under 28 U.S.C. § 1441(a), because this Honorable Court embraces the place where the removed action has been pending, Caddo Parish, Louisiana.

¹ A civil action “arises” under the laws of the United States if the state law claim raised in the civil action “necessarily raise[s] a stated federal issue, actually disputed and substantial, which a federal forum may entertain without disturbing any congressionally approved balance of federal and state judicial responsibilities.” *Grable & Sons Metal Products, Inc. v. Darue Eng’g & Mfg.*, 545 U.S. 308, 125 S. Ct. 2363, 2368 (2005).

7. The Midland Defendants are providing a copy of this Notice of Removal to all counsel of record and will file promptly a copy of same with the clerk of the state court where the action has been pending.

8. By filing this Notice of Removal, the Midland Defendants do not waive their rights to assert any defenses and/or objections to which they are entitled.

WHEREFORE, MRC Receivables Corp., Midland Funding, LLC, Encore Capital Group, Inc. (improperly named in the Petition as currently having the corporate name of Performance One Financial, Inc. and doing business as Midland Credit Management, Inc.), and Midland Credit Management, Inc. give notice that Cause No. 591,172-A styled *Jesse James v. MRC Receivables Corp., et al.*, pending in the First Judicial District Court of Caddo Parish, Louisiana, has been removed from the State Court to the United States District Court for the Western District of Louisiana, Shreveport Division, and the Midland Defendants request that this Honorable Court assume full jurisdiction over this cause as provided by law.

Respectfully submitted, this 4th day of April, 2016.

MRC RECEIVABLES CORP., MIDLAND
FUNDING, LLC, ENCORE CAPITAL GROUP,
INC., and MIDLAND CREDIT MANAGEMENT,
INC.

BY: BALCH & BINGHAM LLP

BY: /s/ Matthew W. McDade
Of Counsel

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CERTIFICATE OF SERVICE

I certify that on this 4th day of April, 2016, I electronically filed the foregoing pleading with the Clerk of Court using the ECF system which sent notification of such filing to all counsel of record.

Further, I hereby certify that I have sent via United States Mail, postage prepaid, a true and correct copy of the pleading to the following:

David A. Szwak
416 Travis Street, Suite 1404
Mid South Tower
Shreveport, LA 71101

/s/ Matthew W. McDade
Of Counsel